

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED  
2014 MAR 20 PM 1:21  
DEPUTY CLERK D.A.

IKENO JUAN COLBY CAMPBELL,

Petitioner,

v.

WILLIAM STEPHENS,  
Director, Texas Dep't of Criminal Justice,  
Correctional Institutions Division,

Respondent.

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2:10-CV-0271

**ORDER OVERRULING OBJECTIONS,**  
**ADOPTING REPORT AND RECOMMENDATION**  
**and DENYING PETITION FOR A WRIT OF HABEAS CORPUS**

Petitioner has filed with this Court a petition for a federal writ of habeas corpus. On February 27, 2014, the United States Magistrate Judge issued a Report and Recommendation to deny the habeas corpus petition. On March 13, 2014, respondent filed objections to the Magistrate Judge's Report and Recommendation.

The undersigned United States District Judge has made an independent examination of the record in this case and has considered the objections by respondent to the Report and Recommendation. Respondent's objections are without merit and are overruled.

The Report and Recommendation recommended denial of the petition notwithstanding certain errors of Texas law which occurred. The issues of state law that were presented were (1) whether consecutive sentences were mandated and (2) whether consecutive sentences were permissible. The Magistrate Judge found consecutive sentences *were not* mandated, but that such did not entitle petitioner to relief. The Magistrate Judge's determination that consecutive sentences were not mandated is set out in detail and is supported by the fact that the Court of Criminal Appeals' refused to adopt the state trial court's finding of fact number one.

The Magistrate Judge then found that the issue of whether consecutive sentences would be permitted would depend upon whether the plea proceedings were consolidated or not. The Magistrate Judge found that if the state court proceedings were consolidated, then concurrent sentences were required. While respondent claims the cases were tried in separate proceedings, that issue is not clear and it is noted that the prosecutor claims he would have tried the cases in different proceedings if the plea bargain had been refused. Such a statement would not be necessary if the cases were not already consolidated. Ultimately, however, the Magistrate Judge found petitioner was not entitled to relief, regardless of any state law errors.

Regarding respondent's objection to petitioner's claim of ineffective assistance, the Report and Recommendation found it unnecessary to address the issue of whether the state court's decision on effectiveness was unreasonable, but instead decided the issue on lack of prejudice.

The objections filed by respondent are hereby OVERRULED, and the Magistrate Judge's Report and Recommendation is ADOPTED. Accordingly, the petition for a writ of habeas corpus is DENIED.

IT IS SO ORDERED.

ENTERED this 20<sup>th</sup> day of March 2014.

  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE